



COMMITTEE ON ENERGY AND COMMERCE

Chairman Greg Walden
115th Congress

H.R. 806, Ozone Standards Implementation Act of 2017

Working to Ensure Jobs and Economic Growth, While Protecting Public Health

WHY THIS BILL MATTERS

- While ozone levels are down one-third since 1980 and continue to trend downward, states are faced with implementing multiple, stringent new standards simultaneously.
- Gives states tools to meet important new upcoming ozone and other air quality standards.
- Protects public health while addressing practical implementation issues.

BACKGROUND: The legislation allows states to pursue cost-effective and practical implementation of EPA's ozone standards. Under the Clean Air Act's National Ambient Air Quality Standards (NAAQS) program, the EPA sets standards for [criteria pollutants](#), including ground-level [ozone](#). EPA initially established ozone standards in 1971, and subsequently revised them in 1979, 1997, and 2008. Unfortunately, EPA did not publish implementing regulations for the [2008 standards](#) until March 2015, and states are now implementing those standards. Because EPA then revised these standards in October 2015, states now face the prospect of simultaneously implementing two ozone standards.

Further, states are increasingly confronting other challenges under the statutory construct of the NAAQS implementation program. These challenges range from the agency's failure to issue timely implementation regulations and guidance when revising standards, to specific issues relating to foreign emissions or exceptional events, provisions in the statute that have been interpreted to require states to pursue measures that may not be technologically or economically feasible, and the current statutory requirement that EPA review all NAAQS no later than every 5 years.

WHAT THE ACT WILL DO:

Existing Ozone Standards: The Act would:

- 1) Phase in implementation of the 2008 and 2015 ozone standards, extending to 2025 the date for final designations under the 2015 standards; and
- 2) Align permitting requirements under the phased implementation schedule.

NAAQS Process: The Act would:

- 1) Change the mandatory review of NAAQS from 5 to 10 years, while allowing the EPA Administrator discretion to issue revised standards earlier;
- 2) Authorize the EPA Administrator to consider technological feasibility as a secondary consideration when revising NAAQS;
- 3) Ensure the EPA Administrator, prior to revising NAAQS, obtains advice from the agency's scientific advisory committee regarding potential adverse effects relating to implementation of the standards, as required by Section 109 of the Clean Air Act;
- 4) Ensure the EPA Administrator issues timely implementation regulations and guidance when revising NAAQS;
- 5) Ensure that for certain ozone and particulate matter nonattainment areas, states are not required to include economically infeasible measures in their plans;
- 6) Ensure that states may seek relief with respect to certain exceptional events, including droughts, under Section 319 of the Clean Air Act;
- 7) Direct EPA to submit reports to Congress regarding (i) the impacts of foreign emissions on NAAQS compliance and related matters, including the agency's current petition process under Section 179B of the Clean Air Act; and (ii) ozone formation and effective control strategies; and
- 8) Limit the applicability of particular sanctions and fees on certain ozone and particulate matter nonattainment areas if States demonstrate the reason for nonattainment is for emissions beyond the States' regulatory control.

ADDITIONAL BACKGROUND MATERIALS:

EPA Links Relating to 2015 Ozone Standards: [Final Rule](#); [Regulatory Impact Analysis](#); [Overview](#); [Designations and Permitting Requirements for the 2015 Ozone Standards](#); [2015 Ozone NAAQS Timelines](#); [Memorandum](#); [Supporting Documents](#); [Docket](#).

E&C: For background regarding implementation of ozone standards and other NAAQS related issues, see [March 22, 2017 Hearing](#) entitled "H.R. 806, Ozone Standards Implementation Act of 2017," [April 14, 2016 Hearing](#) entitled "H.R. 4775, Ozone Standards Implementation Act of 2016," [Serial No. 114-134](#); [June 12, 2015 Hearing](#); [June 16, 2015 Joint Hearing](#); and [May 21, 2014 Hearing](#); see also [July 29, 2015 Letter](#). See also, Feb. 16, 2017 Hearing entitled "[Modernizing Environmental Laws: Challenges and Opportunities for Expanding Infrastructure and Promoting Development and Manufacturing](#)." For additional background regarding implementation challenges faced by States and localities relating to the NAAQS process, see [Clean Air Act Forum \(Part I\)](#); [Clean Air Act Forum \(Part II\)](#); [Clean Air Act Forum \(Part III\)](#); [Letters of Support for H.R. 4775](#).